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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/390,025	09/03/1999	CHARLES A. PEYSER	07710.0002-0	6210

32042 7590 05/09/2003

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EXAMINER	
ROSEN, NICHOLAS D	
ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/390,025	Applicant(s) PEYSER ET AL.	
	Examiner Nicholas D. Rosen	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 January 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *11* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Claims 1-22 have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 4, 7, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy et al. (U.S. Patent 6,260,024) in view of Giovannoli (U.S. Patent 5,758,328). As per claim 1, Shkedy discloses a computer-implemented method, comprising: aggregating a plurality of buyers for purchasing at least one product or service as a group (Abstract), wherein the product or service may be telecommunication service (column 28, lines 35-38); generating a request for purchasing the at least one service (column 3, lines 39-55); presenting the request to a plurality of providers

(column 3, lines 39-55); and receiving replies from the providers in response to the request (column 3, lines 39-55). Shkedy does not disclose presenting the replies to at least one of the buyers in the group, or receiving a selection from the at least one buyer in response to the replies, but Giovannoli teaches presenting providers' replies to buyers (column 2, lines 35-51), and receiving a selection from a buyer in response (Figure 2B). Giovannoli is not explicit about notifying a provider of the selection, but notification is inherent, in that business (shipping of a product from the selected provider to the buyer, payment from the buyer to the provider) could not take place without notification of the provider. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to present the replies to at least one of the buyers in the group, receive a selection from the at least one buyer in response to the group, and notify a provider of the selection, for the obvious advantage of enabling the at least one buyer to buy the service which appears most advantageous to him.

As per claim 2, Shkedy discloses compiling the request from information received from the group during the aggregating step (column 3, lines 39-55).

As per claim 4, Shkedy discloses that the compiling includes identifying each of the buyers in the group (column 5, lines 7-16, 25-30, and 60-62; column 10, lines 32-37).

As per claim 7, Shkedy does not disclose that generating a request includes compiling a list of providers to receive the request, and that presenting the request includes granting access to the request to only the providers on the list, but Giovannoli

teaches that generating a request includes compiling a list of providers to receive the request, and that presenting the request includes granting access to the request to only the providers on the list (column 2, lines 52-67; column 7, lines 1-14). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to compile a list of providers to receive the request, and grant access to the request only to the providers on the list, for the obvious advantages of directing requests to providers potentially acceptable to buyers, or capable of providing the desired service; making such requests more likely to receive attention, by limiting them to providers capable of fulfilling them and likely to be interested in doing so; and keeping the buyers' request confidential from competitors or current service buyers, who the buyer might not wish to have informed.

As per claim 8, Shkedy does not disclose that generating a request includes compiling a list of providers to receive the request, and that presenting the request includes granting access to the request to only the providers on the list, but Giovannoli teaches that generating a request includes compiling a list of providers to receive the request, and that presenting the request includes transmitting the request to only the providers on the list (column 2, lines 52-67; column 7, lines 1-14). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to compile a list of providers to receive the request, and transmit the request only to the providers on the list, for the obvious advantages of directing requests to providers potentially acceptable to buyers, or capable of providing the desired service; making such requests more likely to receive attention, by limiting them

to providers capable of fulfilling them and likely to be interested in doing so; and keeping the buyers' request confidential from competitors or current service buyers, who the buyer might not wish to have informed.

As per claim 9, Shkedy discloses that generating a request includes qualifying at least one buyer, and distributing the request to the providers only when the buyer is qualified (column 5, line 60, through column 6, line 6).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy and Giovannoli as applied to claim 1 above, and further in view of Felt (U.S. Patent 6,128,742). Shkedy does not expressly disclose that the compiling includes obtaining contact information for a buyer, but discloses communicating with the buyer (column 6, lines 40-46; column 6, line 63, through column 7, line 7), which would be impossible without obtaining contact information for the buyer. Shkedy does not expressly disclose obtaining a name for the group, but does disclose a multi signing process wherein a forward purchase order must be signed by multiple individuals before it can be a legally binding contract, e.g., in the case of a larger organization (column 7, lines 42-47), which is held to imply obtaining a name for the organization or group. Shkedy does not expressly disclose assigning an initial password to the group, but does disclose a buyer using a password so that his identity can be authenticated (column 20, lines 49-51; note also column 7, lines 5-12); Felt specifically teaches assigning a password to a group (column 4, lines 32-35). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to assign an initial password to the group, for the obvious advantage of enabling members of that group to

identify themselves as such, and participate in group business, while preventing non-members from doing so.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy and Giovannoli as applied to claim 1 above, and further in view of official notice. Shkedy does not disclose identifying billing preferences for the at least one telecommunications service, but official notice is taken that it is well known to identify billing preferences. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the to identify billing preferences, for the obvious advantages of arranging to bill for at least one telecommunications service in a way convenient to the buyers and/or the service provider (the claim does not specify whose billing preferences are identified).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy and Giovannoli as applied to claim 1 above, and further in view of the article "Bell Offers Answers for Commonly Asked Customer Questions," hereinafter "Bell." Shkedy does not disclose obtaining information regarding prior use of telecommunication service, but "Bell" teaches that whether customers are required to pay a deposit for new telephone service depends on whether they have had prior credit problems with the telephone company (paragraph beginning "A: Usually, no."), which implies obtaining information regarding prior use of telecommunication service. Hence, it would have been obvious to one ordinary skill in the art of electronic commerce at the time of applicant's invention to obtain information regarding prior use of telecommunication service, for the obvious advantage of basing contractual terms on evidence of creditworthiness, brand loyalty,

level of service usage, etc., so as to engage in transactions if, and only if, they appear likely to be profitable.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy and Giovannoli as applied to claim 1 above, and further in view of official notice. Shkedy discloses presenting, to a buyer, contractual terms and conditions for providing the service from a provider, and receiving an acceptance of the terms and conditions (column 5, lines 42-59; column 13, lines 7-34; column 14, lines 7-29). Shkedy does not expressly disclose presenting contractual terms and conditions to the group, but presenting terms to each buyer in the group is equivalent to presenting terms to the group. Shkedy does not expressly disclose that the terms are for providing the service *from the notified provider* (as opposed to whichever provider(s) may in future be notified), but official notice is taken that it is well known to present to buyers contractual terms and conditions for a service from a particular provider. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to present, to the group, contractual terms and conditions for providing the at least one telecommunication service from the notified provider, for the obvious advantage of arranging a valid contract between the buyers and the provider.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy in view of Giovannoli. Claim 11 is parallel to claim 1, reciting means for doing what claim 1 recites a method of doing, and is therefore rejected on essentially the same grounds.

Claims 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy in view of Giovannoli, and further in view of official notice in the case of claims 6 and 21; further in view of Felt in the case of claim 14; and further in view of Bell in the case of claim 17. Claims 12-21 are essentially parallel to claims 1-10 respectively, reciting a processor for carrying out what claims 1-10 recite the method of doing, and therefore rejected on essentially the same grounds. Shkedy discloses a memory (column 9, lines 18) as additionally recited in claim 12. Also, claim 20 recites language slightly different from that of parallel claim 9, but the disclosures of Shkedy are believed to make claim 20 as well as claim 9 unpatentable, for essentially the same reasons.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy in view of Giovannoli. Claim 22 is parallel to claim 1, reciting a computer-readable medium for causing a computer to perform the method of claim 1, and is therefore rejected on essentially the same grounds.

Response to Arguments

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection. However, one point is worth addressing, as Shkedy, formerly a secondary reference, is now the primary reference. Applicant writes that Shkedy does not disclose or suggest the claimed invention, since Shkedy discloses binding offers from buyers, instead of requests from buyers leading to offers from sellers, which buyers may or may not choose to accept. It is true that Shkedy does not anticipate Applicant's claims, but Giovannoli does teach presenting sellers' replies to

buyers, which buyers may then choose to accept (and this is in any event common commercial procedure). Therefore, the references in combination are believed to suggest Applicant's invention to one of ordinary skill in the art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown (U.S. Patent 6,023,686) discloses a method for conducting an on-line bidding session with bid pooling. Chou et al. (U.S. Patent 6,055,504) disclose a method and system for accommodating electronic commerce in a communication network capacity market. Pallakoff (U.S. Patent 6,269,343) discloses an on-line marketing system and method, with volume discounts for buyers acting as a group. Walker et al. (U.S. Patent 6,418,415) disclose a system and method for aggregating multiple buyers utilizing conditional purchase offers.

Mori et al. (Japanese published patent application 9-212549) disclose a method and system for electronic commerce.

The anonymous article "Industry.net Teams with PNC Bank on Web Commerce" discloses a Web-based aggregator of buyers and sellers. The anonymous article, "Accompany, Inc. to Revolutionize Commerce; Buyers Come Together for Best Value," discloses aggregating buyers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 703-305-0753. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and for After Final communications. Non-official/draft communications can be faxed to the examiner at 703-746-5574.

The new mailing address for the Patent Office is:

Commissioner for Patents

P.O. Box 1450

Alexandria VA 22313-1450

As of May 1, 2003, the former addresses, Washington DC 20231 and P.O. Box 2327 Arlington VA 22202, should **not** be used.

Papers can be hand-delivered to the Technology Center 3600 receptionist, 7th floor, Crystal Park 5, 2451 Crystal Drive, Arlington VA 22202.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Nicholas D. Rosen
April 30, 2003